

Application No. 09/904,236
Amendment dated September 30, 2003
Reply to Office Action of July 29, 2003

REMARKS

The Examiner rejected claim 3 under 35 U.S.C. § 112, second paragraph, as lacking sufficient antecedent basis for "said server." The Applicant has amended claim 3 accordingly.

Independent claim 1 was rejected as being obvious over Komatsu in view of Alberth, Jr. and further in view of Kobayashi.

The Examiner indicates that Komatsu teaches a cart with a position sensing capability. Kobayashi, according to the Examiner, teaches a system in which users may communicate by a short range wireless system to chat about an ongoing sporting event they are all watching. Alberth teaches a desirability of another short range wireless system where people in a local vicinity can converse.

What is plainly missing from Alberth and Kobayashi is any kind of position indicating system. Namely, one user knows that anyone whom he or she talks to is in the vicinity but he does not know where. For example, in the system of Alberth, one hiker could contact other hikers over the network but it may be hard for other hikers to figure out where that hiker is located. If that hiker is lost, the other hikers may be hard pressed to help that hiker.

Komatsu, according to the Examiner, teaches a system in which a plurality of carts can determine their locations through sensors. The system of Komatsu only tells a particular user where that user is. None of the references, or their combination in any way suggest providing the position information back to a central source as set forth in claim 1.

In the reference to Alberth, there is no central server and thus, even if position information was provided, it would have no server or central entity that could then distribute it out. Likewise, in Kobayashi, there would be no reason to have position indicating information served out by a server.

The cited prior art does not provide a suggestion or motivation to modify the invention of Komatsu to wirelessly link a plurality of shopping carts within a retail facility through a local area network based in the retail facility. M.P.E.P § 2143.01 ("The prior art must suggest the

Application No. 09/904,236
Amendment dated September 30, 2003
Reply to Office Action of July 29, 2003


desirability of the claimed invention"). Here, instead of showing the desirability of the modification from the prior art, the Examiner simply makes up the desirability with the benefit of hindsight reasoning. Absent a rationale to modify from within the cited art, a *prima facie* rejection is not made out.

Independent claims 11 and 21 also distinguish over Komatsu, Alberth, Jr. and Kobayashi for reasons similar to those set forth above with respect to independent claim 1.

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested.

Respectfully submitted,

Date: September 30, 2003



Timothy N. Trop, Registration No. 28,994
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, Texas 77024
(713) 468-8880 [Phone]
(713) 468-8883 [Fax]

Customer No.: 21906